



MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Robert D. Andron, General Counsel *RD*
El Paso Water Utilities Public Service Board

DATE: September 1, 2004

SUBJECT: **A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A THIRD AMENDMENT TO A RADIO ANTENNA SITE LEASE AGREEMENT BETWEEN THE CITY, ON BEHALF OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD AND REGENT BROADCASTING OF EL PASO, INC. SAID LEASE SITE BEING A PORTION OF TRACT 18, SECTION 31, BLOCK 80, TOWNSHIP 1, CONSISTING OF 44.502 ACRES IN EL PASO, EL PASO COUNTY, TEXAS (District #4)**

CONSENT AGENDA – City Council Agenda

On July 14, 2004, the El Paso Water Utilities Public Service Board passed a resolution requesting the City Council authorize the Mayor to sign a Third Amendment to a Radio Antenna Site Lease Agreement between the City, on behalf of the El Paso Water Utilities Public Service Board (PSB) and Regent Broadcasting of El Paso, Inc. The PSB and Regent Broadcasting of El Paso, Inc., desire to have the City execute a third amendment to renew the lease agreement extending the term an additional five (5) years from September 5, 2004, until September 4, 2009; and allowing one five-year option to renew. This property is located in northeast El Paso near Dyer and is described as a portion of Tract 18, Section 31, Block 80, Township 1, consisting of 44.502 acres of land in El Paso, El Paso County, Texas.

I will attend the City Council meeting to answer any questions concerning this item. In the meantime, please call me if you need additional information. Thank you.

cc: Jim Martinez, Interim City Manager
Adrian Ocegueda, Executive Assistant to the Mayor
Lisa Elizondo, City Attorney
Theresa Cullen Garney, Deputy City Attorney
Richarda Duffy Momsen, City Clerk
Nicholas Costanzo, Assistant General Manager, PSB
Juan Benavidez, Land Administration, PSB

RESOLUTION

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A THIRD AMENDMENT TO A RADIO ANTENNA SITE LEASE AGREEMENT BETWEEN THE CITY, ON BEHALF OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD AND REGENT BROADCASTING OF EL PASO, INC. SAID LEASE SITE BEING A PORTION OF TRACT 18, SECTION 31, BLOCK 80, TOWNSHIP 1, CONSISTING OF 44.502 ACRES IN EL PASO, EL PASO COUNTY, TEXAS.

WHEREAS, El Paso Water Utilities holds in trust for the City that certain parcel of land described as a portion of Tract 18, Section 31, Block 80, Township 1, consisting of 44.502 acres of land in El Paso, El Paso County, Texas; and,

WHEREAS, the land under the jurisdiction of the El Paso Water Utilities Public Service Board (PSB) and is leased for use as a radio antenna transmitter tower site; and,

WHEREAS, the PSB and Regent Broadcasting of El Paso, Inc., request the City sign a third amendment to renew the lease agreement extending the term an additional five (5) years from September 5, 2004, until September 4, 2009; and allowing one five-year option to renew; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

The Mayor is hereby authorized to sign on behalf of the City's El Paso Water Utilities Public Service Board a Third Amendment to the Lease Agreement between the City of El Paso and Regent Broadcasting of El Paso, Inc. Said amendment renews the lease extending the term an additional five (5) years and allowing one five-year option.

PASSED AND APPROVED this _____ day of _____, 2004.


THE CITY OF EL PASO

ATTEST:

Joe Wardy, Mayor

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



Robert D. Andron, General Counsel, PSB

RESOLUTION

A RESOLUTION AUTHORIZING THE BOARD CHAIR TO EXECUTE AND REQUESTING THE CITY COUNCIL TO AUTHORIZE THE MAYOR TO EXECUTE A THIRD AMENDMENT TO A LEASE AGREEMENT BETWEEN THE CITY OF EL PASO AND REGENT BROADCASTING OF EL PASO, INC.; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of El Paso, for and on behalf of its El Paso Water Utilities (LESSOR), and D & F Communications, L.P. (LESSEE) entered into a three (3) year Lease Agreement dated May 11, 1993, for the use of land as a site for radio transmitter(s); and

WHEREAS, on March 8, 1995, said Lease was assigned to New Wave Communications, Inc.; and, on October 3, 1995, the City approved the First Amendment to the Lease Agreement to extend the term from September 5, 1995, until September 4, 1998; and, the option was exercised to renew for an additional three-year term from September 5, 1998, until September 4, 2001; and

WHEREAS, on January 12, 2000, said Lease was assigned from New Wave Communications, Inc. to Regent Broadcasting of El Paso, Inc., and the term was previously extended; and

WHEREAS, on February 15, 2000, the City approved the request from Regent Broadcasting of El Paso, Inc., for the Second Amendment to the Lease to extend the term an additional three (3) years from September 5, 2001, until September 4, 2004; and

WHEREAS, Regent Broadcasting of El Paso, Inc., has requested that the Third Amendment to the Lease Agreement be approved extending the term an additional five (5) years from September 5, 2004, until September 4, 2009; and allowing one five-year option to renew.

NOW, THEREFORE, BE IT RESOLVED by the PUBLIC SERVICE BOARD of the City of El Paso, Texas:

Section 1. That the findings and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by the PSB and made a part of this Resolution for all purposes.


Section 2. That the PSB hereby authorizes the Board Chair to execute and requests the City Council authorize the Mayor to execute a Third Amendment to a Lease Agreement, attached hereto as Exhibit "A", extending the term of the Lease Agreement from September 5, 2004, until September 4, 2009.

Section 3. That Regent Broadcasting of El Paso, Inc., accepts all of the terms and conditions of the Lease Agreement and agrees to perform all of the obligations thereof.

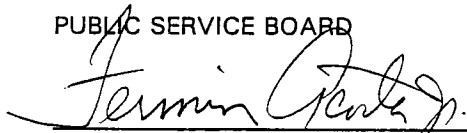
Section 4. That a copy of this Resolution be transmitted to the City Attorney's Office.

PASSED AND APPROVED at a regular meeting of the Public Service Board of the City of El Paso Texas, this 14th day of July, 2004, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

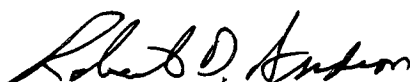
ATTEST:


Secretary-Treasurer Ruben Guerra

PUBLIC SERVICE BOARD


Chair Fermin Acosta, Jr.

APPROVED AS TO FORM:


Robert D. Andron, General Counsel

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT TO LEASE is entered into by and between the CITY OF EL PASO, acting on behalf of the El Paso Water Utilities, (LESSOR) and REGENT BROADCASTING OF EL PASO, INC., a Delaware corporation (LESSEE).

1. **RECITALS.** Lessor and D & F COMMUNICATIONS, L.P., Lessee entered into that certain Lease Agreement (Lease) dated May 11, 1993, for the lease of a portion of Tract 18, Section 31, Block 80, TSP 1, El Paso, El Paso County, Texas, for the use of land as a site for radio transmitter(s). NEW WAVE COMMUNICATIONS was the successor to D & F COMMUNICATIONS and was the Lessee under the Lease until January 2000, at which time New Wave assigned its rights and obligations to Regent Broadcasting of El Paso, Inc. Lessee and Lessor hereby amend the Lease, as follows:
2. **TERM.** The term of the Lease is extended from September 5, 2004 to September 4, 2009. One, five (5) year option to renew, is also granted.
3. **RENT.** The current annual rental is \$36,834.60, payable in equal monthly installments as provided in the Lease. The rental for each subsequent year of this extended term shall be adjusted to relate to the Consumer Price Index for Urban Consumers (CPI-U) as provided in the Lease.
4. Except as herein modified, all of the other terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed on the _____ day of _____, 2004.

REGENT BROADCASTING OF EL PASO, INC.

By: _____

Brad Dybow
(Print Name) vptcm
(Title)

THE CITY OF EL PASO

ATTEST:

City Clerk

Joe Wardy, Mayor

APPROVED AS TO FORM:

Robert D. Andron

Robert D. Andron, General Counsel, PSB

EXECUTED this 14th day of July, 2004.

PUBLIC SERVICE BOARD

Fermin Acosta, Jr.
Chair Fermin Acosta, Jr.

ATTEST:

Ruben Guerra
Secretary-Treasurer Ruben Guerra

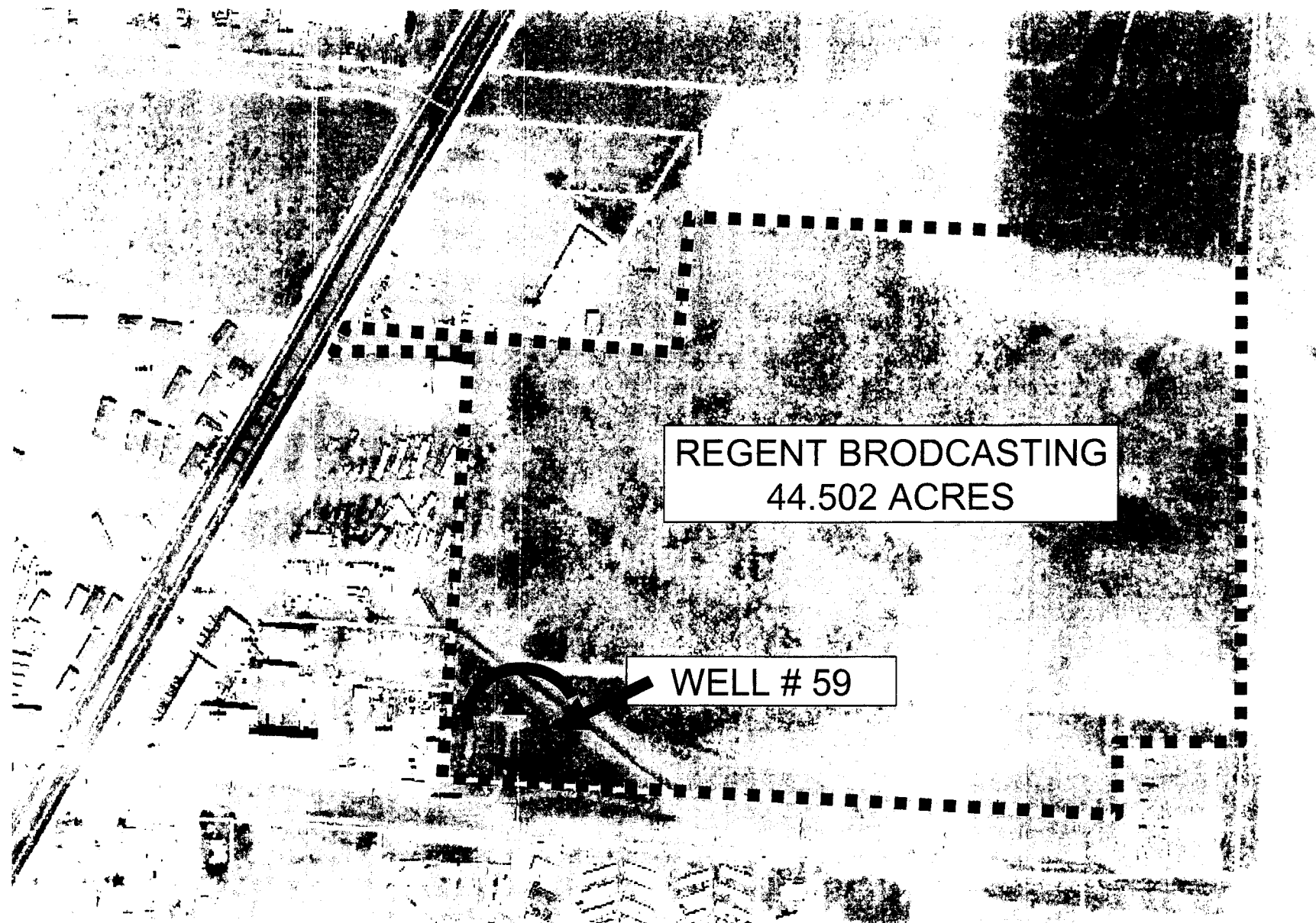
APPROVED AS TO FORM:

Robert D. Andron
Robert D. Andron, General Counsel

Regent Broadcasting Lease
TSP 1, Blk. 80, Sect. 31, Tr. 18
44.502 Acres

DYE

LOCATION MAP
ONLY



REGENT BROADCASTING
44.502 ACRES

WELL # 59

LOCATION MAP
ONLY